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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

File: [REDACTED] Office: SAN FRANCISCO, CA

Date:

JUN 18 2001

IN RE: Applicant: [REDACTED]

Application: Application for Waiver of Grounds of Inadmissibility under
Section 212(i) of the Immigration and Nationality Act, 8
U.S.C. 1182(i)

IN BEHALF OF APPLICANT:

Public Copy

Identification data deleted to
prevent clearly unwarranted
invasion of personal privacy.

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, San Francisco, and a subsequent appeal was dismissed by the Associate Commissioner for Examinations. The matter is now before the Associate Commissioner on a motion to reconsider. The motion will be dismissed.

The applicant is a native and citizen of India who was found to be inadmissible to the United States under § 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C.1182(a)(6)(C)(i), for having procured admission into the United States by fraud or willful misrepresentation in 1989. The applicant married a naturalized United States citizen in 1996 and is the beneficiary of an approved petition for alien relative. The applicant seeks the above waiver in order to remain in the United States and reside with her spouse and two children from a previous marriage.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the application accordingly. The Associate Commissioner affirmed that decision on appeal.

On motion, counsel states that the district director erred in denying the waiver request because the applicant was unaware of her misrepresentation in procuring admission into the United States. Counsel also asserts that the applicant warrants a favorable consideration of her request because she suffered past persecution in India on account of her religion and political opinion.

8 CFR 103.5(a)(2) states, in pertinent part, that "[a] motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision." 8 CFR 103.5(a)(4) states, in pertinent part, that "[a] motion that does not meet applicable requirements shall be dismissed."

The applicant's motion to reconsider is not supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. Counsel merely cites Matter of L-O-G, 21 I&N Dec. 413 and Matter of O-J-O, 21 I&N Dec. 381, as stating that "...family ties...should be examined." Both the district director and the Associate Commissioner examined the family ties present in the case but found the applicant statutorily ineligible for relief.

In addition, the motion does not establish that the decision was incorrect based on the evidence of record at the time of the initial decision. On motion, counsel reasserts the same arguments as were submitted on appeal; that the applicant was unaware of her

misrepresentation, that she would face persecution if returned to India, and that the applicant's family would face hardships due to separation from the applicant. These issues were all discussed in the prior decisions of the district director and the Associate Commissioner.

The applicant's motion does not meet the applicable requirements. Accordingly, the motion will be dismissed, the proceedings will not be reopened, and the previous decisions of the district director and the Associate Commissioner will not be disturbed.

ORDER: The motion is dismissed.